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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/565,871

07/27/2006

Ralf Peter Mueller

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EXAMINER

ALIE, GHASSEM

ART UNIT

PAPER NUMBER

3724

MAIL DATE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/565,871	<b>Applicant(s)</b> MUELLER ET AL.	
	<b>Examiner</b> GHASSEM ALIE	<b>Art Unit</b> 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04/30/09.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 41,43,44,50-56,68,69 and 76-82 is/are pending in the application.
- 4a) Of the above claim(s) 76-82 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 41,43,44,50-56,68 and 69 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

***Pre-Appeal Brief Request***

1. In response to the Pre-Appeal Brief Request filled on 04/03/09, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 41, 43, 44, 50-58, 68 and 69 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 41, “a counterweight, which is axially displaced in the opposite direction from the cutting blade” is confusing. It is not clear what “the opposite direction from the cutting blade” means. Is cutting blade moves in an opposite direction than the counterweight? What is considered to be the direction of the cutting blade? It is not clear what direction is the direction of the cutting blade. In addition, “the direction of the cutting blade” lacks antecedent basis. Similarly, claims 50 and 53 should be changed as claim 41.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

a person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 41, 43-44, 50-54 and 68-69 are rejected under 35 U.S.C. 102(b) as being anticipated by Urschel et al. (2,621,692), hereinafter Urschel. Regarding claim 41, Urschel

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teaches a slicing machine including a rotating cutting blade 15, which is mounted so as to be displaceable parallel to a rotation axis of rotation of the blade. Urschel also teaches that the slicing machine also includes a counterweight "CW" which is axially displaced in the opposite direction from the cutting blade 15. See Figs. 1-6 and col. 5, lines 43-60 and col. 7, lines 1-39 in Urschel.

Regarding claims 43-44 and 68-69, Urschel teaches everything noted above including that the displacement of the cutting blade 15 takes place independently of a rotational speed of the cutting blade; the cutting blade 15 is mounted to a drive shaft 85 so as to be displaced along the drive shaft 85; the cutting gap also could be adjusted when the blade is stationary or rotating; and the axial position of the blade is not substantially changed after it has come onto contact with an adjusting limit stop. It should be noted that the zero position of the axial position of the blade is shown in Fig. 4, when the blade is not rotated. However, the rotation of the shaft facilitates movement of the blade upwardly by the counter weight from the zero position.

Regarding claims 50-52, Urschel teaches everything noted above including a method for axial displacement of the cutting blade 15 during operation. Urschel also teaches a counterweight "WC" on a drive shaft 85 of the cutting blade 15 is displaced in the opposite direction from the cutting blade 15. It should be noted that the counterweight is axially displaced on the drive shaft via lever 102. Urschel also teaches that the displacement of the counterweight and the cutting blade are synchronously. Urschel also teaches that the displacement of the cutting blade 15 or the counterweight is achieved by a spindle 91.

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Regarding claims 53-54, Urschel teaches everything noted above including a method of using at least one counterweight “WC” in a slicing machine including the steps of displacing the at least one counterweight “WC” in the opposite direction from a cutting blade 15 to stabilize running of the cutting blade of a slicing machine, wherein the cutting blade includes an axis of rotation, and the cutting blade is mounted so as to be displaceable parallel to the rotation axis of the blade. In addition, Urschel also teaches that the forces and/or movements arising during displacement of the blade are compensated.

6. Claim 50, as best understood, is rejected under 35 U.S.C. 102(b) as being anticipated by Wodack et al. (2,175,499), hereinafter Woodack. Regarding claim 50, Wodack teaches a method for displacement of a cutting blade 11 during operation of a slicing machine, comprising the steps of axially displacing a counterweight 34 on a drive shaft 37 of the cutting blade 11 in an opposite direction from the cutting blade. See Figs. 1-2, page 2, col. 1, lines 1-14. It should be noted that the counterweight 34 could be shafted in an opposite direction that the backward or forward direction of direction of the blade 11.

#### ***Response to Amendment***

7. Applicant's arguments with respect to claims 41, m50 and 53 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Fleming (3,874,605), Gardner (1,797,646), Lavis (4,163,404) and Martignone (2,525,557) teach an apparatus including a rotating blade and a counterweight.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501.

The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ghassem Alie/

Primary Examiner, Art Unit 3724

July 16, 2010